



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

July 17, 2002

Office of the Secretary  
Federal Communications Commission  
455 12<sup>th</sup> Street, SW Portals II Building  
Washington, DC 20544

**RE: Reply Comments of the Pennsylvania Public Utility Commission,  
*Review of the Section 251 Unbundling Obligations of Local Exchange  
Carriers*, CC Docket No. 01-338, et al., Notice of Proposed Rulemaking,  
FCC 01-361 (rel. December 20, 2001).**

Madam Secretary:

The Pennsylvania Public Utility Commission (PAPUC) respectfully submits these reply comments to the comments filed on or before April 5, 2002 in response to the Notice of Proposed Rulemaking issued by the Commission in the above-captioned proceedings.

Because of the critical impact that the UNE triennial review will have on existing state commission policy initiatives, we feel compelled to reiterate our support for a national, minimum UNE list where states retain the ability to add to the list. Consistent with our comments filed in this matter, we agree with the Commission's findings that Section 251(d)(3) of TA-96 "grants State commissions the authority to impose additional obligations upon incumbent LECs beyond those imposed by a national list, as long as they meet the requirements of [Section] 251."<sup>1</sup> As previously stated at pages 4-7 of our comments, this authority should include a state's ability to re-list a network element that has been de-listed by the Commission as long as the additional UNE obligations comply with TA-96 and the relevant state law.<sup>2</sup> In fact, the ability to impose additional UNE obligations becomes even more vital to the states in light of the recent D.C. Circuit Court decision calling for a more restrictive national approach to establishing UNEs.<sup>3</sup>

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<sup>1</sup> *Implementation of the Local Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Notice of Proposed Rulemaking, 15 FCC Rcd 3696, 3766-3767, paras. 153-154 (1999).

<sup>2</sup> The PAPUC also has authority under Pennsylvania law to impose unbundling obligations pursuant to "Chapter 30" of the Public Utility Code, 66 Pa. C.S. §§3001-3009.

<sup>3</sup> See *United States Telecom. Ass'n, et al., v. Bell Atlantic Tel. Cos., et al.*, 2002 U.S. App. LEXIS 9834.

Furthermore, the PAPUC continues to oppose the use of performance standards as a factor in determining whether to de-list a UNE for a particular state. As previously stated at pages 7-8 of our comments, the PAPUC reaffirms that federal unbundling rules should bear no relationship to any federal performance standards that may be established.

Regarding the convention of a Federal-State Joint Conference on UNEs pursuant to Section 410(b),<sup>4</sup> we maintain that some kind of formal mechanism may be appropriate to secure state participation in the application of the “necessary” and “impair” standards under Section 251(d)(2). State participation in this process may be particularly valuable when considering the on-going nature of the triennial review and the state regulators’ vast experience with and perspectives on the current UNE regime.

We appreciate the opportunity to provide input in these proceedings.

Respectfully submitted,

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<sup>4</sup> As previously stated in our comments, the Commission is authorized under Section 410(b) to confer with any State commission having regulatory jurisdiction with respect to carriers regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commissions. 47 U.S.C. §410(b).